Texas Credit Union League

Richard L. Ensweiler, CCUE, CAE
President and Chief Executive Officer

April 6th, 2009

Mary Rupp, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Via e-mail to: regcomments@ncua.gov

RE: TCUL Comments on Advanced Notice of Proposed Rulemaking form Part 704

Dear Ms. Rupp:

Thank you for providing us the opportunity to comment regarding the ANPR on several key issues facing the corporate credit union system. The Texas Credit Union League [TCUL] is the official state trade association serving credit unions in Texas. Organized in 1934, the Texas Credit Union League represents over 500 not-for-profit Texas credit unions, which in turn are owned by nearly 7 million members.

The Role of Corporates in the Credit Union System; Structure Issues

TCUL believes today's stability issues in the corporate CU system are not primarily due to inherent flaws in the architecture of employing a three-tier system design. The three-tier system worked demonstrably well for credit unions for decades. This current severe financial crisis, in tandem with the biggest recession in decades, has negatively affected the entire financial sector. The issues affecting corporate credit unions today are arguably, at least in part, a failure of overall regulatory systemic risk incurred, and that the U.S. Congress is now attempting to address legislatively.

NCUA should therefore exercise prudence and restraint in determining new rules, rule changes, or even attempted restructuring of the corporate credit union system. Congress will need to work its will in laying out a restructuring of the financial regulatory system, and only on completion and enactment of that legislation should rules be devised or revised by NCUA, within that new financial system regulatory legal framework.

To be accurate, the OTTI securities that have caused the lion's share of the problems in the corporate system were a huge factor in the current situation. It has been our continued understanding that these were generally very highly rated investments (AAA) at the time of their purchase by corporate credit unions. They were purchased and held with on-going NCUA regulatory risk oversight, and the major commercial rating agencies failed to accurately measure (or, critically understated,) a much higher level risk for these securities than the AAA label warranted.

With mark-to-market fair value accounting rules applied under GAAP, corporate balance sheets were stressed, in some cases severely, a fact NCUA understood when it commissioned its' own PIMCO analysis to obtain the actual credit performance of these securities/asset value rather than rely on market value for regulatory decision making.

Nonetheless, there is no question that a review of current investment authorities by corporate credit unions and risk concentration limits is entirely appropriate, prudent, and advisable.

There can be a net-positive impact of retaining the three-tier structure. A central entity (such as US Central) can realize greater efficiencies on behalf of its corporate credit union members in the settlements process and in obtaining direct access to financial markets, rather than each corporate attempting to staff up to do this and each developing it's own software and infrastructure to support what arguably may be done best on a larger scale for all parties by a central corporate.

Corporate Service Offerings

The core function of a corporate credit union is the settlements function, along with short-term liquidity and investments. This is the primary purpose for the existence for corporates for credit unions.

As stated previously, certainly a review of long-term investments expanded powers and authority is warranted by NCUA. One may argue that long-term investments do not comprise an essential, critical, nor core purpose offering of the corporate system, as CUs can choose alternatives and do have other long-term investment options available directly to them. A corporate credit union's membership should have the ability to assess the need and determine whether long term investment services are needed.

While some argue for keeping expanded investment authorities and just requiring more capital (potentially requiring a risk-based capital system), we are not sure if funding significant further capital requirements will be forthcoming from credit unions in the near term. Again, the credit union membership should have the power to make the decision if they own it and will risking their own capital.

Credit union members, not NCUA, should have the latitude to decide whether payment systems are absolutely essential in the corporate structure. Are key efficiencies gained by locating these in corporates? Again, we feel the credit union members of the corporate are in the best position to judge for themselves, and answers may vary by geography as opposed to system-wide consensus.

Capital Issues

Natural person credit unions should be required to have capital invested in a corporate in order to access the corporate's services. The amount of required capital should be proportionately on each credit union's asset size. We support a minimum 4% to 6% Tier 1 capital level; this is similar to most federally insured financial institution requirements today. Both Tier 1 and Tier 2 capital should be factors in capital ratio calculations. Requiring risk-based capital should be evaluated in the context of holding long-term investments.

Governance Issues

Credit unions own their corporates and these decisions about governance should come from, and be driven, by the membership. On the question of allowing an option of outside, non-member directors, that should be allowed only if the members desire it, not mandated. A limit should be set of up to no more than one-fifth of a corporates' Board of Directors being non-members.

Field of Membership Issues

Many believe national fields of membership provide options for credit unions and competition within the corporate system. However, there is a counter-argument that a geographically based system (limited FOM based on geography) focuses the corporate credit union on its core mission of serving those members and does not distract. To some observers, when corporates set out to compete nationally, as many have over the last decade, an outcome may be that the aggressive corporates deliberately incur higher risks than would otherwise be warranted in order to attract members/market share in the national marketplace.

One can reasonably question whether efficiencies are gained by having many corporates try to offer duplicative service offering on national scale as required to compete in a national environment, rather than a corporate be focused on providing just the services tailored to what members credit unions demand in their geographic sphere.

Ultimately, in an evolutionary process, corporate credit union members should decide how the field-of-membership issue should be resolved to best serve the needs of their own credit union and the system.

Conclusion

We understand the need for agency review of the entire corporate credit union system. We appreciate that NCUA needs to hear directly from credit unions on these key issues, and encouraged our credit unions to do so. TCUL uses Southwest Corporate for liquidity and investment functions, and is a member with capital in that corporate credit union.

Thank you for the opportunity to comment on the ANPR on corporate credit unions. If you have questions about our comments, please feel free to call me at (800) 442-5762, ext. 6410.

Sincerely,

Richard L. Ensweiler

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President and Chief Executive Officer
Texas Credit Union League